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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/684,740

18015-D3

4052

7590

06/25/2004

Lewis J Kreisler
930 Clopper Road
Gaithersburg, MD 20878

EXAMINER

PATEL, SUDHAKER B

ART UNIT

PAPER NUMBER

1624

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding:

Office Action Summary	Application No.	Applicant(s)	
	10/684,740	SHALINI SHARMA	
	Examiner	Art Unit	
	Sudhaker B. Patel, D.Sc.Tech.	1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicants' communication paper dated 3/31/04 is acknowledged.

Examiner appreciates the willingness of applicants for providing missing pages, IDS papers and the Figures.

Claims 1-6 are pending in this application.

First action on merits follows.

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 1/15/04 is being considered by the examiner. Signed copy of PTO Form 1449 is enclosed with this communication for applicants' record.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(A). Applicants' claims 1-6 are related to compounds of Formula II. The claims recite the terms (where applicable) 'A Biologically active agent' & " agent". The claims remain silent about the exact and definite meaning related to biological activity. Correction to: "A compound of Formula II" is required. See MPEP § 2172.01. The omitted elements are: The exact make up of a "Biologically active agent".

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(B). Claim 1 recites R4 variable. However, the Formula does not recite so. Correction is required.

Conclusion

Allowable Subject Matter

4. Claims 1-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art ref. Jerumanis et al (Chemical Abstract DN 56:31154, also cited as Bull. Des Soc. Chimiques Belges, 69, 312-22(1960)) teaches compounds which are either mono or difluorinated haloalkyl. See compounds with CAS RN No.345-35-7; 452-07-3; 495-07-8; 697-73-4

The other reference Phillips et al (EP 330613 dated 8/1989, also cited as Chemical Abstract DN 112:120706 teaches making of 1,2,4-triazole-S-CH₂-substitutedphenyl-OH. See compound with CAS RN No. 125719-53-1.

The above stated references either alone or in combination do not suggest or indicate to arriving at the instant compounds with a core: "A- (CH₂) 1-4-O-Unsubstituted phenyl- (CH₂) 0-1-(COCH₂) 0-1-S-1, 2,4-triazole, wherein A is phenyl, cycloalkyl or heterocycle as stated in claim1".

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sudhaker B. Patel, D.Sc.Tech. whose telephone number is (571) 272-0671.

The examiner can normally be reached on 6:30 to 5:00 pm (Monday-Thursday). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Mukund J. Shah can be reached on (571) 272 0674 or Sr. Examiner Mr. Richard Raymond at (571) 272 0673 or Mr. James O. Wilson at (571) 272-0661. The fax phone numbers for the organization where this application or proceeding is assigned

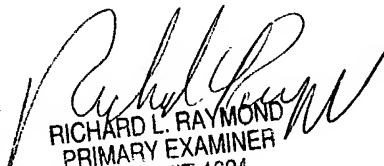
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are 703 308 4556 for regular communications and 703 308 4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1235. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sudhaker B. Patel, D.Sc. Tech.
May 4, 2004.



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ART UNIT 1624/1623